S.B. Civil Writ Petition No.7333/2007
Madan Lal
vs
District Judge, Jaisalmer & Anr.

Date of order : 5.11.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.Vikas Balia, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order of the appellate court dated 26.9.2007 by which the appellate court allowed the appeal of the appellant and set aside the order of the trial court dated 13.8.2007 by which the trial court refused to grant injunction in favour of the plaintiff-respondent.

Learned counsel for the petitioner vehemently submitted that the petitioner-defendant is in possession of the property in dispute and his possession was admitted by the plaintiff himself as he submitted an application in the year 2005 stating therein that the defendant is raising construction over the property in dispute. It is submitted that in view of the above reason, the appellate court committed error of law in allowing the appeal and granting injunction against the petitioner.

I considered the submissions of learned counsel for the petitioner and perused the facts of the case

and the reasons given by the two courts below. The appellate court observed that the plaintiff's case is founded upon one Patta and in view of the above reason, there are debatable questions involved in the suit and therefore, during the pendency of the suit both the parties are bound down from raising any construction over the property in dispute and directed to maintain the status quo. The first appellate court also directed the trial court to decide the suit within a period of six months. Since by the impugned order, the first appellate court directed both the parties to maintain status quo with respect to the property in dispute and there is no reason for interference in the impugned order while exercising jurisdiction under Article 227 of the Constitution of India in the facts of the case, therefore, this Court is not inclined to interfere in the impugned order, particularly, when the trial court was directed to decide the suit expeditiously.

Hence, the writ petition of the petitioner is dismissed having no merit.

(PRAKASH TATIA), J.

c.p.goyal/-